

## NATIONAL HERITAGE AREAS POLICY ACT

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JUNE 11, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. HANSEN, from the Committee on Resources,  
submitted the following

### R E P O R T

[To accompany H.R. 2388]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2388) to establish the criteria and mechanism for the designation and support of national heritage areas, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “National Heritage Areas Policy Act”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Purposes.  
Sec. 3. Definitions.  
Sec. 4. Recommendation of areas for designation as national heritage areas.  
Sec. 5. Requirements applicable to feasibility studies.  
Sec. 6. Management plans.  
Sec. 7. Grants for proposed national heritage areas.  
Sec. 8. Grants to support designated national heritage areas.  
Sec. 9. Technical assistance.  
Sec. 10. Termination of designation.  
Sec. 11. Private property protection.  
Sec. 12. Relationship to other Federal programs.  
Sec. 13. Savings provisions.  
Sec. 14. Funding provisions.

#### SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(1) To establish the criteria and mechanisms for the designation of certain areas in the United States containing nationally important natural, historic, and cultural resources and recreational and educational opportunities that are geographically assembled and thematically related as areas that provide unique frameworks for understanding the great and diverse character of the United States and the development of communities and their surroundings as national heritage areas.

(2) To strengthen, complement, and support the existing units of the National Park System through the interpretation and conservation of the associated living landscapes outside of the boundaries of those units.

(3) To describe the extent of Federal responsibilities and duties in regard to future national heritage areas.

(4) To encourage collaboration and partnerships among State and local governments, nonprofit organizations, and the private sector, or combinations thereof, to conserve and manage the resources and opportunities in national heritage areas.

(5) To authorize Federal financial and technical assistance to local coordinating entities to assist in the conservation and interpretation of national heritage areas.

### SEC. 3. DEFINITIONS.

In this Act:

(1) **FEASIBILITY STUDY.**—The term “feasibility study” means a study conducted by the Secretary, or conducted by one or more other interested parties and approved by the Secretary in accordance with this Act, regarding the feasibility of designating any proposed national heritage area as a national heritage area.

(2) **LOCAL COORDINATING ENTITY.**—The term “local coordinating entity” means, with respect to a national heritage area—

(A) an entity recognized by the Secretary, but only after consultation with the chief executive officer of the State in which the national heritage area is located (or if the area is located in more than one State, the chief executive officers of all such States), that agrees to perform the duties of a local coordinating entity under this Act; or

(B) a Federal commission designated by Congress with members appointed by the Secretary to perform the duties of a local coordinating entity under this Act.

(3) **NATIONAL HERITAGE AREA.**—The term “national heritage area” means an area or corridor designated by an Act of Congress as a national heritage area.

(4) **PROPOSED NATIONAL HERITAGE AREA.**—The term “proposed national heritage area” means an area or corridor that has been authorized by an Act of Congress for which the Secretary has been explicitly authorized to conduct a study to determine the suitability and feasibility of designating the area or corridor as a national heritage area.

(5) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(6) **STATE.**—The term “State” means each of the Several States, the District of Columbia, Guam, the Virgin Islands, American Samoa, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands.

(7) **UNIT OF LOCAL GOVERNMENT.**—The term “unit of local government” means the government of a State, a political subdivision of a State, or an Indian tribe.

### SEC. 4. RECOMMENDATION OF AREAS FOR DESIGNATION AS NATIONAL HERITAGE AREAS.

The Secretary may recommend to Congress that an area or corridor be designated as a national heritage area only if, not later than 5 years after the Act explicitly authorizing the Secretary to conduct a study to determine the suitability and feasibility of designating the area or corridor as a national heritage area, the Secretary has—

(1) determined, based upon a feasibility study conducted for the proposed national heritage area that the area contains resources of national importance and is suitable and appropriate for designation as a national heritage area; and

(2) approved a management plan developed in accordance with this Act for the proposed national heritage area that includes a business plan as described in section 6(b)(4)(G).

### SEC. 5. REQUIREMENTS APPLICABLE TO FEASIBILITY STUDIES.

(a) **STUDY PROCESS AND CONTENT.**—A feasibility study for a proposed national heritage area shall—

(1) be conducted by the Secretary or by one or more other interested parties for the proposed national heritage area;

(2) be conducted with participation from the public and units of local government; and

(3) include the following:

(A) Sufficient information to determine whether the proposed national heritage area meets the criteria specified in subsection (b).

(B) A description of the natural, historic, and cultural resources and recreational, interpretive, and educational opportunities presented by the proposed national heritage area, including an assessment of the quality and in-

tegrity of, the availability of public access to, and the themes represented by such resources and opportunities.

(C) An assessment of the interest of, and impact of possible designation upon, potential partners, units of government, nonprofit organizations, and other private entities.

(D) A description of the boundaries and conceptual framework for the proposed national heritage area, if the study concludes that all or a portion of the proposed national heritage area is appropriate for designation as a national heritage area.

(E) The identity of the local coordinating entity for the proposed national heritage area.

(b) CRITERIA FOR CONCLUDING AREA IS APPROPRIATE FOR DESIGNATION.—The criteria referred to in subsection (a)(3)(A) are the following:

(1) ASSEMBLAGE OF RESOURCES.—The proposed national heritage area is a cohesive assemblage of natural, historic, cultural, or recreational resources that—

(A) together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use; and

(B) are best managed through partnerships between private and public entities.

(2) TRADITIONS, CUSTOMS, BELIEFS, OR FOLKLIFE.—The proposed national heritage area reflects traditions, customs, beliefs, or folklife, or some combination thereof, that are a valuable part of the heritage of the United States.

(3) CONSERVATION OF NATURAL, CULTURAL, OR HISTORIC FEATURES.—The proposed national heritage area provides outstanding opportunities to conserve natural, cultural, or historic features, or some combination thereof.

(4) RECREATIONAL AND EDUCATIONAL OPPORTUNITIES.—The proposed national heritage area provides outstanding recreational and interpretive opportunities.

(5) THEMES AND INTEGRITY OF RESOURCES.—The proposed national heritage area has an identifiable theme, and resources important to the theme retain integrity capable of supporting interpretation.

(6) SUPPORT.—Residents, nonprofit organizations, other private entities, and units of local government throughout the proposed national heritage area demonstrate support through letters or other means for designation of the proposed national heritage area as a national heritage area and for management of the proposed national heritage area as appropriate for such designation.

(c) COMMENTS OF STATE CHIEF EXECUTIVE OFFICER.—Before submitting any feasibility study to the Congress regarding a proposed national heritage area, the Secretary shall solicit comments from the chief executive officer of each State in which the proposed national heritage area is located. The Secretary shall include in the study any comments the Secretary receives from each relevant chief executive officer.

(d) SUBMISSION OF FEASIBILITY STUDY.—Upon completion or approval by the Secretary of a feasibility study, the Secretary shall submit the study to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The Secretary shall include with the study the recommendations of the Secretary with respect to the proposed designation to which the study relates.

(e) STUDIES BY INTERESTED PARTIES.—For the purposes of any Act authorizing the Secretary to conduct a study to determine the feasibility of designating an area as a national heritage area, the Secretary may approve a feasibility study submitted by one or more interested parties in lieu of conducting the study if the feasibility study meets the requirements of this Act unless the Act authorizing the study explicitly exempts the study from this subsection.

(f) APPROVAL AND DISAPPROVAL OF A FEASIBILITY STUDY.—

(1) IN GENERAL.—Not later than 90 days after receipt of a feasibility study for a proposed national heritage area, the Secretary shall approve or disapprove the study. If the Secretary has not approved or disapproved the study within that 90-day period, the study shall be considered approved.

(2) DISAPPROVAL AND REVISIONS.—If the Secretary disapproves a feasibility study for a proposed national heritage area, the Secretary shall advise the entity that submitted the study, in writing, of the reasons for the disapproval and shall make recommendations, if any, for a revision of the study. Not later than 90 days after receipt of a revised feasibility study, the Secretary shall approve or disapprove the revised study. If the Secretary has not approved or disapproved the revised study within that 90-day period, the revised study shall be considered approved.

# SEC. 6. MANAGEMENT PLANS.

(a) REQUIREMENTS.—In order to meet the requirements of this Act, a management plan for a proposed national heritage area shall be prepared by the local coordinating entity for the proposed national heritage area in accordance with this section. In preparing the management plan, the local coordinating entity shall perform each of the following duties:

(1) MANAGEMENT PLAN.—Prepare and submit a management plan reviewed by participating units of local government within the boundaries of the proposed national heritage area.

(2) COLLABORATION.—Collaborate with and consider the interests of diverse units of government, businesses, tourism officials, private property owners, and nonprofit groups within the geographic area of the proposed national heritage area in developing and implementing such management plan.

(3) PUBLIC INVOLVEMENT.—Ensure regular public involvement, including public meetings at least annually, regarding the implementation of the management plan for the proposed national heritage area.

(4) RECORDS FOR AUDITS.—Make available to the Secretary for audit, for any year in which Federal funds have been received under this Act, all records pertaining to the expenditure of such funds and any matching funds, and require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available to the Secretary for audit all records pertaining to the expenditure of such funds.

(b) CONTENTS OF MANAGEMENT PLAN.—The management plan prepared for a proposed national heritage area shall—

(1) present a comprehensive program for the conservation, interpretation, funding, management, and development of the proposed national heritage area and of the historical, cultural, and natural resources and the recreational and educational opportunities of the proposed national heritage area, in a manner consistent with the existing local, State, and Federal land use laws and compatible economic viability of the proposed national heritage area;

(2) involve residents, public agencies, and private organizations working in the proposed national heritage area;

(3) specify and coordinate, as of the date of the management plan, existing and potential sources of technical and financial assistance under this and other Federal laws to protect, manage, and develop the proposed national heritage area; and

(4) include—

(A) actions to be undertaken by units of government and private organizations to protect, conserve, and interpret the resources of the proposed national heritage area;

(B) an inventory of the resources contained in the proposed national heritage area, including a list of any property in the proposed national heritage area that is related to the themes of the proposed national heritage area and that is found to merit preservation, restoration, management, development, or maintenance because of its natural, cultural, historical, or recreational significance;

(C) policies for resource management with appropriate land and water management techniques, including the development of intergovernmental cooperative agreements, private sector agreements, or any combination thereof, to protect the historical, cultural, recreational, and natural resources of the proposed national heritage area in a manner consistent with supporting appropriate and compatible economic viability;

(D) a program for implementation of the management plan by the designated local coordinating entity, in cooperation with its partners and units of local government;

(E) evidence that relevant State, county, and local plans applicable to proposed national heritage areas have been taken into consideration;

(F) an analysis of ways in which local, State, and Federal programs may best be coordinated to promote the purposes of this Act; and

(G) a business plan that—

(i) describes in detail the role, operation, financing, and functions of the local coordinating entity and of each activity included in the recommendations contained in the management plan; and

(ii) provides, to the satisfaction of the Secretary, adequate assurances that the local coordinating entity is likely to have the financial resources necessary to implement the management plan for the proposed heritage area, including resources to meet matching requirement for grants awarded under this Act.

(c) **PUBLIC NOTICE.**—To satisfy the requirements of subsection (a)(3), the local coordinating entity shall place a notice of each of its public meetings in a newspaper of general circulation in the proposed national heritage area and shall make the minutes of the meeting available to the public.

(d) **APPROVAL OF THE PLAN.**—The Secretary may approve the management plan for a proposed national heritage area only if the Secretary finds that—

(1) the management plan satisfies the requirements of this Act and, if implemented, would—

(A) adequately protect, conserve, or adaptively reuse the significant historical, cultural, natural, and recreational resources of the proposed national heritage area; and

(B) consistent with such protection, provide outdoor recreational opportunities and compatible economic activities within the proposed national heritage area;

(2) the participating units of local government within the boundaries of the proposed national heritage area have been consulted and given adequate opportunity to comment on the management plan;

(3) the local coordinating entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan; and

(4) the Secretary has received from the chief executive officer of each State acknowledgement that such officer is aware of the proposed national heritage area.

(e) **APPROVAL AND DISAPPROVAL OF A MANAGEMENT PLAN.**—

(1) **IN GENERAL.**—Not later than 90 days after receipt of a management plan for a proposed national heritage area, the Secretary shall approve or disapprove the management plan. If the Secretary has not approved or disapproved the management plan within that 90-day period, the management plan shall be considered approved.

(2) **DISAPPROVAL AND REVISIONS.**—If the Secretary disapproves a management plan for a proposed national heritage area, the Secretary shall advise the entity that submitted the management plan, in writing, of the reasons for the disapproval and shall make recommendations for a revision of the management plan. Not later than 90 days after receipt of a revised management plan, the Secretary shall approve or disapprove the revised management plan. If the Secretary has not approved or disapproved the revised management plan within that 90-day period, the revised management plan shall be considered approved.

#### **SEC. 7. GRANTS FOR PROPOSED NATIONAL HERITAGE AREAS.**

(a) **AUTHORITY TO MAKE GRANTS.**—The Secretary may make grants for activities authorized by subsection (b).

(b) **USE OF GRANTS.**—

(1) **AUTHORIZED USES.**—Grants under this section may be used for activities necessary—

(A) to conduct a feasibility study for a proposed national heritage area; and

(B) to prepare a management plan for a proposed national heritage area, including the business plan required under section 6(b)(4)(G).

(2) **PROHIBITED USES OF GRANTS.**—Grants under this section may not be used for—

(A) the acquisition of real property or any interest in real property; or

(B) any other activity not specifically authorized by paragraph (1).

(c) **DURATION OF ELIGIBILITY FOR GRANTS.**—The Secretary may not provide a grant under this section for a proposed national heritage area for any period after the expiration of the 5-year period beginning on the date of the enactment of the Act authorizing the feasibility study for the proposed national heritage area.

#### **SEC. 8. GRANTS TO SUPPORT DESIGNATED NATIONAL HERITAGE AREAS.**

(a) **AUTHORITY TO MAKE GRANTS.**—The Secretary may make grants from appropriated funds to the local coordinating entity for a national heritage area for activities authorized by subsection (b).

(b) **USE OF GRANTS.**—

(1) **AUTHORIZED USES.**—Grants under this section may be used by a local coordinating entity for—

(A) reports, studies, interpretive exhibits and programs, historic preservation projects, and other activities recommended in the management plan for the national heritage area; and

(B) operational expenses of the local coordinating entity incurred within the first 10 fiscal years beginning after the date of the enactment of the Act designating the national heritage area.

(2) PROHIBITED USES OF GRANTS.—Grants under this section may not be used for—

- (A) the acquisition of real property or any interest in real property; or
- (B) any other activity not specifically authorized by paragraph (1).

(c) PROTECTION OF FEDERAL INVESTMENT.—The Secretary shall require that each grant under this section for the improvement, restoration, or rehabilitation of real property shall be subject to an agreement that conversion, use, or disposal of the project assisted with the grant for purposes contrary to the purposes for which the grant was made shall result in a right of the United States to compensation from the beneficiary of the grant. Any such agreement shall provide for a schedule for such compensation based on the level of Federal investment and the anticipated useful life of the project.

(d) DURATION OF ELIGIBILITY FOR GRANTS.—The Secretary may not provide any grant under this section to a local coordinating entity for any period after the expiration of the 10-year period beginning on the date of the enactment of the Act designating the national heritage area.

#### SEC. 9. TECHNICAL ASSISTANCE.

The Secretary may provide technical assistance on a nonreimbursable basis—

- (1) to any interested party for any activity for which the Secretary is authorized to provide a grant under section 7; and
- (2) to local coordinating entities for any activity for which the Secretary is authorized to provide a grant under section 8.

#### SEC. 10. TERMINATION OF DESIGNATION.

(a) NOTICE OF DETERMINATION.—The Secretary shall submit a written notice to the local coordinating entity of a national heritage area so designated after the date of the enactment of this Act if the Secretary determines that—

- (1) implementation of the management plan for the national heritage area has failed to meet standards set forth in the management plan; or
- (2) a preponderance of the units of local government involved in implementing the management plan for the national heritage area no longer support such designation.

(b) COMMENT.—Not later than 60 days after the date that the Secretary submits a written notice under subsection (a) to a local coordinating entity, the local coordinating entity may submit to the Secretary written comments supporting a contention that the determination under section (a) was made in error.

(c) TERMINATION.—After considering any comments submitted under subsection (b), if the Secretary decides that the determination under subsection (a) was correct, the Secretary shall no longer provide financial assistance under this Act for that national heritage area.

#### SEC. 11. PRIVATE PROPERTY PROTECTION.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this Act shall be construed to require any private property owner to permit public access (including Federal, State, or local government access) to such private property. Nothing in this Act shall be construed to modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(b) LIABILITY.—Designation of a national heritage area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this Act shall be construed to modify any authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN NATIONAL HERITAGE AREAS.—Nothing in this Act shall be construed to require the owner of any private property located within the boundaries of a national heritage area to participate in or be associated with the national heritage area.

#### SEC. 12. RELATIONSHIP TO OTHER FEDERAL PROGRAMS.

(a) OTHER ASSISTANCE NOT AFFECTED.—This Act does not affect the authority of any Federal official to provide technical or financial assistance under any other law.

(b) NOTIFICATION OF OTHER FEDERAL ACTIVITIES.—The head of each Federal agency shall provide to the Secretary and the local coordinating entity for a national heritage area, to the extent practicable, advance notice of all activities which may have an impact on the national heritage area.

#### SEC. 13. SAVINGS PROVISIONS.

(a) RULES, REGULATIONS, STANDARDS, AND PERMIT PROCESSES.—Except as provided in section 12(b), nothing in this Act shall be construed to impose any environ-

mental, occupational, safety, or other rule, regulation, standard, or permit process in a national heritage area that is different from those that would be applicable if the national heritage area had not been established.

(b) **WATER AND WATER RIGHTS.**—Nothing in this Act shall be construed to authorize or imply the reservation or appropriation of water or water rights.

(c) **NO DIMINISHMENT OF STATE AUTHORITY.**—Nothing in this Act shall be construed to diminish the authority of the State containing any national heritage area to manage fish and wildlife, including the regulation of fishing and hunting within the national heritage area.

(d) **EXISTING NATIONAL HERITAGE AREAS.**—Nothing in this Act shall affect any national heritage area so designated before the date of the enactment of this Act.

#### **SEC. 14. FUNDING.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There are authorized to be appropriated for each fiscal year for grants and technical assistance for activities under section 8—

(A) not more than \$1,000,000 for any fiscal year for each national heritage area to remain available until expended; and

(B) not more than a total of \$10,000,000 for each national heritage area.

(2) **AMOUNTS FOR INITIAL STUDIES AND PLANS.**—In addition to amounts authorized in paragraphs (1) and (3), there are authorized to be appropriated for each fiscal year for grants and technical assistance for activities under section 7—

(A) not more than \$250,000 for any fiscal year for each proposed national heritage area to remain available until expended; and

(B) not more than a total of \$1,500,000 for each proposed national heritage area.

(3) **AMOUNTS FOR FEASIBILITY STUDIES.**—In addition to amounts authorized in paragraphs (1) and (2), there is authorized to be appropriated not more than \$250,000 for each feasibility study directed by Congress to be completed by the Secretary.

(b) **REQUIRED MATCH.**—As a condition of providing a grant under this section, the Secretary shall require the recipient of the grant to provide matching funds equal to the amount of the grant. Recipient matching funds—

(1) must be from non-Federal sources; and

(2) may be made in the form of in-kind contributions of goods or services fairly valued.

(c) **LIMIT ON FEDERAL OVERSIGHT AND ADMINISTRATIVE FUNDS.**—Not more than five percent of the funds made available under each of subsections (a)(1) and (a)(2) for a fiscal year may be used by the Secretary for technical assistance, oversight, and administrative purposes.

(d) **PROHIBITION ON USE OF FUNDS TO SUPPLEMENT NATIONAL PARK SYSTEM.**—No funds authorized to be appropriated under this section other than those authorized by subsection (c) may be used to supplement funding or programs at any unit of the National Park System.

(e) **USE OF FEDERAL FUNDS FROM OTHER SOURCES.**—Nothing in this Act shall preclude a local coordinating entity from using Federal funds available under other Federal laws for the purposes for which those funds were authorized.

(f) **ALLOCATION OF APPROPRIATIONS.**—Notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Secretary to carry out the purposes of this Act may be obligated or expended—

(1) unless the appropriation of such funds has been allocated in the manner prescribed by this Act; or

(2) in excess of the amount authorized in this Act.

#### **PURPOSE OF THE BILL**

The purpose of H.R. 2388 is to establish the criteria and mechanism for the designation and support of national heritage areas.

#### **BACKGROUND AND NEED FOR LEGISLATION**

There are currently 23 Congressionally-designated national heritage areas (NHA) and corridors in the United States—17 of which have been designated since 1996. Today, criteria exists for establishing units of the National Park System, the National Trails System, and National Wild and Scenic River System, yet no uniform standards or criteria exists for the Secretary of the Interior to de-

termine the feasibility for designation, or even what makes an area “nationally important” for NHA or corridor status. Meanwhile, to date over 18 bills have been introduced in 107th Congress to either establish or authorize a feasibility study for 12 new NHAs and corridors.

NHAs and corridors, a relatively new phenomenon, are not units of the National Park System, but rather are regions in which entire communities (i.e. residents, businesses and local governments) have come together to conserve special landscapes and their own heritage that in many cases strengthen, complement and support existing units of the National Park System through the interpretation and conservation of associated living landscapes outside the boundaries of those units. In these NHAs and corridors, the National Park Service does not acquire new land. Instead, conservation, interpretation, and other activities are managed by partnerships among federal, state and local governments, and private, non-profit organizations. The National Park Service provides technical assistance to local coordinating entities and financial assistance for a limited period. For each NHA and corridor, a local government agency, nonprofit organization, or independent federal commission has been recognized by Congress to serve as the management entity that coordinates the partners’ actions. Designation as an NHA or corridor brings no federal regulation of private property.

H.R. 2388 establishes uniform criteria and mechanisms for designating new NHAs and corridors by defining the circumstances under which a region or corridor warrants designation, such as does the area or corridor contain nationally important natural, historic, and cultural resources and recreational and educational opportunities that are geographically and thematically related. The bill further establishes standards for managing and maintaining these areas, outlines the extent of federal responsibilities and duties in regard to future NHAs, encourages collaboration and partnerships among State and local governments, nonprofit organizations and the private sector to conserve and manage the resources and opportunities of NHAs, and authorizes federal financial and technical assistance to local coordinating entities to assist in the conservation and interpretation of NHAs and corridors.

Specifically, H.R. 2388 establishes a two-tier process that first requires an Act of Congress to authorize the Secretary of the Interior to complete a feasibility study or approve an existing feasibility study for a proposed NHA or corridor. It also requires a management plan to be completed by the local coordinating entity that outlines financial commitments for the proposed area. A matching grant program would be established to assist the local coordinating entity to complete these plans. Within five years, the studies must be completed and approved by the Secretary of the Interior. Then a second Act of Congress would designate the area as a NHA or corridor. Upon designation, the local coordinating entity would be eligible for federal funds for a specific time period to develop interpretive and historic preservation programs and other recommended programs outlined by the management plan. H.R. 2388 makes it clear that nothing in the bill shall be construed to require the owner of any private property located within the boundaries of an NHA to participate in or be associated with an NHA or corridor,



or be construed to modify any authority of federal, State, or local government to regulate land use.

#### COMMITTEE ACTION

H.R. 2388 was introduced on June 28, 2001, by Congressman Joel Hefley (R-CO). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks, Recreation, and Public Lands. On November 1, 2001, the Subcommittee held a hearing on the bill. On April 18, 2002, the Subcommittee met to mark up the bill. Mr. Hefley offered an amendment in the nature of a substitute that made, among others, the following changes to the original text: (1) established a two tier matching grant program that would make funds available to proposed areas for the development of their management and financial plans and feasibility studies, and then additional funding once an area is designated for exhibits, programs, historic preservation, etc.; (2) established criteria for consideration and designation of NHAs; (3) clarified what a local management entity must have completed before designation is possible; and (4) removed existing designated NHAs from the requirements of the bill. It was adopted by voice vote. The bill as amended was then ordered favorably reported to the Full Committee by voice vote. On May 22, 2002, the Full Resources Committee met to consider the bill. Mr. Hefley offered an amendment in the nature of a substitute that established criteria for both the feasibility study and management plan, and required that both the study and management plan be completed and approved by the Secretary of the Interior prior to establishing an NHA or corridor. The amendment also ensured that State and local participation in the development of the NHAs and established a five-year matching grant program to local coordinating entities for the development of their feasibility study and management plan, and then a ten-year grant program for NHAs to carry-out their preservation programs and management plan. Congressman Nick Rahall (D-WV) offered an amendment to the Hefley amendment to permit the use of federal funds to purchase real property or interest in real property within NHAs. It was not adopted by a roll call vote of 15 yeas to 22 noes, as follows:

Convened: 10:00am  
Adjourned: 11:42am

☐ Attendance      ☐ Voice Vote      ☒ Roll Call Vote      Total Yeas 15 Nays 22

	YEA	NAY	PRESENT		YEA	NAY	PRESENT
Mr. Hansen, UT, Chairman		✓		Mr. Jones, NC		✓	
Mr. Rahall, WV	✓			Mr. Kind, WI	✓		
Mr. Young, AK				Mr. Thornberry, TX			
Mr. Miller, CA				Mr. Inslee, WA	✓		
Mr. Tauzin, LA				Mr. Cannon, UT		✓	
Mr. Markey, MA				Mrs. Napolitano, CA	✓		
Mr. Saxton, NJ		✓		Mr. Peterson, PA			
Mr. Kildee, MI	✓			Mr. Tom Udall, NM	✓		
Mr. Gallegly, CA		✓		Mr. Schaffer, CO		✓	
Mr. DeFazio, OR				Mr. Mark Udall, CO	✓		
Mr. Duncan, TN		✓		Mr. Gibbons, NV			
Mr. Faleomavaega, AS				Mr. Holt, NJ	✓		
Mr. Hefley, CO		✓		Mr. Souder, IN		✓	
Mr. Abercrombie, HI	✓			Mr. Acevedo-Vilá, PR	✓		
Mr. Gilchrest, MD		✓		Mr. Walden, OR			
Mr. Ortiz, TX	✓			Ms. Solis, CA	✓		
Mr. Calvert, CA		✓		Mr. Simpson, ID		✓	
Mr. Pallone, NJ				Mr. Carson, OK	✓		
Mr. McInnis, CO		✓		Mr. Tancredó, CO		✓	
Mr. Dooley, CA				Ms. McCollum, MN			
Mr. Pombo, CA		✓		Mr. Hayworth, AZ		✓	
Mr. Underwood, GU	✓			VACANCY			
Mrs. Cubin, WY		✓		Mr. Otter, ID		✓	
Mr. Smith, WA				Mr. Osborne, NE		✓	
Mr. Radanovich, CA		✓		Mr. Flake, AZ		✓	
Ms. Christensen, VI	✓			Mr. Rehberg, MT		✓	
				Total	15	22	

Congressman Richard Pombo (R-CA) offered an en bloc amendment to the Hefley amendment to inform and obtain written consent from private property owners within a proposed NHA. It was not adopted by a roll call vote of 19 yeas to 21 noes, as follows:

## COMMITTEE ON RESOURCES

U.S. House of Representatives  
107<sup>th</sup> Congress

Date: May 22, 2002

Convened: 10:00am

Adjourned: 11:42am

Meeting on: En Bloc Amendment #1B by Mr. Pombo to the Amendment in the Nature of a Substitute by Mr. Hefley (#1) to H.R. 2388

☐ Attendance☐ Voice Vote☒ Roll Call Vote

Total Yeas 19 Nays 21

	YEA	NAY	PRESENT		YEA	NAY	PRESENT
Mr. Hansen, UT, Chairman		✓		Mr. Jones, NC	✓		
<i>Mr. Rahall, WV</i>		✓		<i>Mr. Kind, WI</i>		✓	
Mr. Young, AK				Mr. Thornberry, TX	✓		
<i>Mr. Miller, CA</i>				<i>Mr. Inslee, WA</i>		✓	
Mr. Tauzin, LA				Mr. Cannon, UT	✓		
<i>Mr. Markey, MA</i>				<i>Mrs. Napolitano, CA</i>		✓	
Mr. Saxton, NJ		✓		Mr. Peterson, PA			
<i>Mr. Kildee, MI</i>		✓		<i>Mr. Tom Udall, NM</i>		✓	
Mr. Gallegly, CA	✓			Mr. Schaffer, CO			
<i>Mr. DeFazio, OR</i>				<i>Mr. Mark Udall, CO</i>		✓	
Mr. Duncan, TN	✓			Mr. Gibbons, NV			
<i>Mr. Faleomavaega, AS</i>				<i>Mr. Holt, NJ</i>		✓	
Mr. Hefley, CO		✓		Mr. Souder, IN		✓	
<i>Mr. Abercrombie, HI</i>	✓			<i>Mr. Acevedo-Vilá, PR</i>		✓	
Mr. Gilchrest, MD	✓			Mr. Walden, OR	✓		
<i>Mr. Ortiz, TX</i>		✓		<i>Ms. Solis, CA</i>		✓	
Mr. Calvert, CA	✓			Mr. Simpson, ID	✓		
<i>Mr. Pallone, NJ</i>				<i>Mr. Carson, OK</i>		✓	
Mr. McInnis, CO	✓			Mr. Tancredo, CO	✓		
<i>Mr. Dooley, CA</i>				<i>Ms. McCollum, MN</i>		✓	
Mr. Pombo, CA	✓			Mr. Hayworth, AZ	✓		
<i>Mr. Underwood, GU</i>		✓		VACANCY			
Mrs. Cubin, WY	✓			Mr. Otter, ID	✓		
<i>Mr. Smith, WA</i>		✓		Mr. Osborne, NE	✓		
Mr. Radanovich, CA		✓		Mr. Flake, AZ	✓		
<i>Ms. Christensen, VT</i>		✓		Mr. Rehberg, MT	✓		
				<b>Total</b>	<b>19</b>	<b>21</b>	

Congressman Mark Udall (D-CO) offered an amendment to the Hefley Amendment to insert at the end of the bill a new section entitled “Study on Cultural Heritage Assistance Partnership Program.” It was not agreed to by voice vote. The Hefley amendment in the nature of a substitute was adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title; Table of Contents*

Section 1 contains the short title of the bill, the “National Heritage Areas Policy Act”, and the table of contents.

##### *Section 2. Purposes*

Section 2 contains the purposes of the bill, which are, among others, to: (1) establish the criteria and mechanisms for designations of certain areas in the United States as NHAs; (2) describe the extent of federal responsibilities, including its financial and technical assistance, and duties with regard to future NHAs, and (3) encourage collaboration and partnerships among State and local governments, nonprofit organizations, and the private sector, or combinations thereof, to conserve and manage the resources and opportunities in NHAs.

##### *Section 3. Definitions*

Section 3 includes definitions for terms associated with the bill.

##### *Section 4. Recommendation of areas for designation as national heritage areas*

Section 4 establishes the requirement that the Secretary of the Interior must approve both a feasibility study and management plan prior to Congressional designation of an NHA.

##### *Section 5. Requirements applicable to feasibility studies*

Section 5 outlines the process and requirements for the feasibility study for a proposed NHA and the approval/disapproval process by the Secretary.

##### *Section 6. Management plans*

Section 6 outlines the process and requirements for a management plan for a proposed NHA and the approval/disapproval process by the Secretary.

##### *Section 7. Grants for proposed national heritage areas*

Section 7 outlines the authorized and prohibited uses of grants for proposed NHAs.

##### *Section 8. Grants to support designated national heritage areas*

Section 8 outlines the appropriate and prohibited uses of grants to support designated NHAs.

##### *Section 9. Technical assistance*

Section 9 contains the Secretarial authority to provide technical assistance on a nonreimbursable basis to an interested party for a

proposed NHA and a local coordinating entity for a designated NHA.

*Section 10. Termination of designation*

Section 10 outlines the process for the Secretary to terminate a designated NHA and the process for appeal by a local coordinating entity.

*Section 11. Private property protection*

Section 11 describes the protections for private property within designated NHAs and the relationship of the bill to State and local zoning laws.

*Section 12. Relationship to other federal programs*

Section 12 describes the relationship of the bill to other laws.

*Section 13. Savings provisions*

Sections 13 describes the relationship of the bill to existing NHAs, existing water rights, and State authority.

*Section 14. Funding*

Section 14 contains the authorization of appropriations—not more than \$10 million for grants and technical assistance for each designated NHA and not more than \$1.5 million for grants and technical assistance for each proposed NHA. Also contains matching requirements for grants and establishes a maximum amount for the Secretary to administer the grant program.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective

of this bill is to establish the criteria and mechanism for the designation and support of national heritage areas.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 6, 2002.*

Hon. JAMES V. HANSEN,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3288, the National Heritage Areas Policy Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

STEVEN M. LIEBERMAN  
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 2388—National Heritage Areas Policy Act*

H.R. 2388 would provide a framework for establishing new national heritage areas (NHAs). NHAs are cultural or historical areas managed locally in cooperation with the National Park Service (NPS) but are not units of the National Park System. CBO estimates that enacting H.R. 2388—by itself—would have no effect on the federal budget because none of the activities authorized by the bill could occur without further authorizing legislation. The bill, however, would establish a new procedure that could affect how many and how quickly new NHAs would be established using future appropriate funds. It also would authorize appropriations for the study of and potential creation of future NHAs. H.R. 2388 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

H.R. 2388 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

H.R. 2388 would establish criteria and mechanisms for assessing, planning, designating, and developing new national heritage areas. For each proposed new NHA, Congressional action would be required to authorize both the first step—a feasibility study, and the final step—a formal NHA designation.

Under the bill, once a feasibility study has been authorized, the NPS would have five years to approve and submit to the Congress both the study (conducted either by the NPS or by an interested local entity) and a general management plan (developed by a local coordinating entity), along with the agency's recommendation regarding designation. For each proposed NHA, section 14 of the bill would authorize the appropriation of \$250,000 per year (up to a total of \$1.5 million) for technical assistance and grants to local groups for preparing the feasibility study and management plan.

(This section also would authorize the appropriation of \$250,000 for each feasibility study conducted by the NPS itself.)

Once a formal designation of a new NHA has been enacted, NPS would be authorized to provide technical and financial assistance to a local coordinating entity over the following 10 years. This assistance would provide the local entity with operating funds and would support activities to implement the general management plan (including preparation of the necessary studies and interpretive programs and restoration of historic structures). For this purpose, the bill would authorize the appropriation of \$10 million over 10 years for each NHA.

Because the authority to appropriate funds provided in H.R. 2388 would depend on subsequent acts of Congress to authorize feasibility studies and designate new NHAs, CBO estimates that enacting this legislation alone would have no effect on the federal budget.

The CBO staff contact for this estimate is Deborah Reis. The estimate was reviewed by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

#### CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

